

AMENDED IN ASSEMBLY APRIL 7, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 482

Introduced by Assembly Member Hancock

February 16, 2005

An act to amend Section 60640 of the Education Code, relating to pupil assessment.

LEGISLATIVE COUNSEL'S DIGEST

AB 482, as amended, Hancock. Pupil assessment: English language learners.

Existing law, the Standardized Testing and Reporting (STAR) Program, requires each school district, charter school, and county office of education to administer to each of its pupils in grades 3 and 7 a designated achievement test and, until July 1, 2007, to each of its pupils in grades 2 to 11, inclusive, and after July 1, 2007, to each of its pupils in grades 3 to 11, inclusive, a standards-based achievement test.

~~Existing law authorizes, until July 1, 2007, a pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, to take a second achievement test in his or her primary language at the option of the school district.~~

~~This bill would instead require school districts to administer an achievement test to pupils with limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, in their primary language, and would require these tests to be administered only to limited English proficient pupils who either receive instruction in their primary language or have been enrolled in a school in the United States for less than 12 months.~~

Existing law requires, until July 1, 2007, a pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, to take

a test in his or her primary language if a test is available and fewer than 12 months have elapsed after the pupil's initial enrollment in a California public or nonpublic school.

This bill would instead require a pupil of limited English proficiency who is enrolled in those grades and who either receives instruction in his or her primary language or has been enrolled in a school in the United States for less than 12 months to take a test in his or her primary language if the test is available.

~~Existing law, operative July 1, 2007, authorizes a pupil of limited English proficiency who is enrolled in any of grades 3 to 11, inclusive, to take a second achievement test in his or her primary language at the option of the school district.~~

~~This bill would instead require those pupils to take that second test, and would require these tests to be administered only to limited-English-proficient pupils who either receive instruction in their primary language or have been enrolled in a school in the United States for less than 12 months.~~

Existing law, operative July 1, 2007, requires a pupil identified as limited English proficient who is enrolled in any of grades 3 to 11, inclusive, and has not been reclassified as proficient in English, to take a test in his or her primary language if a test is available and if fewer than 12 months have elapsed after his or her initial enrollment in any public school in the state.

This bill would instead provide that, *effective January 1, 2007*, a pupil with limited English proficiency who is enrolled in any of grades 3 to 11, inclusive, ~~shall be~~ *is* required to take a test in his or her primary language if a test is available, and would require these tests to be administered only to limited-English-proficient pupils who either receive instruction in their primary language or have been enrolled in a school in the United States for less than 12 months.

This bill would make other technical, nonsubstantive changes.

~~By imposing~~ *To the extent that this bill would impose* additional duties on school districts, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 60640 of the Education Code, as
2 amended by Section 15 of Chapter 233 of the Statutes of 2004, is
3 amended to read:

4 60640. (a) There is hereby established the Standardized
5 Testing and Reporting Program, to be known as the STAR
6 Program.

7 (b) Commencing in the 2004–05 fiscal year and each fiscal
8 year thereafter, and from the funds available for that purpose,
9 each school district, charter school, and county office of
10 education shall administer to each of its pupils in grades 3 and 7
11 the achievement test designated by the state board pursuant to
12 Section 60642 and shall administer to each of its pupils in grades
13 2 to 11, inclusive, the standards-based achievement test provided
14 for in Section 60642.5. The state board shall establish a testing
15 period to provide that all schools administer these tests to pupils
16 at approximately the same time during the instructional year,
17 except as necessary to ensure test security and to meet the final
18 filing date.

19 (c) The publisher and the school district shall provide two
20 makeup days for the testing of previously absent pupils within
21 the testing period established by the state board in subdivision
22 (b).

23 (d) The governing board of the school district may administer
24 achievement tests in grades other than those required by
25 subdivision (b) as it deems appropriate.

26 (e) Pursuant to paragraph (17) of subsection (a) of Section
27 1412 of Title 20 of the United States Code, individuals with
28 exceptional needs, as defined in Section 56026, shall be included
29 in the testing requirement of subdivision (b) with appropriate
30 accommodations in administration, where necessary, and those
31 individuals with exceptional needs who are unable to participate
32 in the testing, even with accommodations, shall be given an
33 alternate assessment.

(f) (1) ~~Pupils~~—(A) A pupil identified as limited-English-proficient, and who either receives instruction in his or her primary language or has been enrolled in a school in the United States for less than 12 months, shall take the achievement test in his or her primary language if a test is available.

(B) At the option of the school district, a pupil with ~~limited English proficiency who are~~ limited-English-proficiency who is enrolled in any of grades 2 to 11, inclusive, ~~shall be administered an~~ may take a second achievement test in their primary language. ~~These primary language tests shall be administered only to limited-English-proficient pupils who either receive instruction in their primary language or have been enrolled in a school in the United States for less than 12 months.~~ Primary language tests administered pursuant to this subdivision ~~and subdivision (g)~~ shall be subject to the requirements of subdivision (a) of Section 60641. These primary language tests shall produce individual pupil scores that are valid and reliable. *Results of these primary language tests may also be disaggregated by type of program, duration in a program, and English-proficiency.*

(2) Notwithstanding any other law, the state board shall designate for use, as part of this program, a single primary language test in each language for which a test is available for grades 2 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997–98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(3) (A) The department shall use funds made available pursuant to Title VI of the federal No Child Left Behind Act of 2001 and appropriated by the annual Budget Act for the purpose of developing and adopting primary language assessments that are aligned to the state academic content standards. Subject to the availability of funds, primary language assessments shall be developed and adopted for reading/language arts and mathematics in the dominant primary language of limited-English-proficient pupils. The dominant primary language shall be determined by the count in the annual language census of the primary language of each limited-English-proficient pupil enrolled in the California public schools.

1 (B) Once a dominant primary language assessment is available
2 for use for a specific grade level, it shall be administered in place
3 of the assessment designated pursuant to paragraph (1) for that
4 grade level.

5 (C) In choosing a contractor to develop a primary language
6 assessment the state board shall consider the criteria for choosing
7 a contractor or test publisher as specified by Sections 60642 and
8 60643, and as specified by Section 60642.5, as applicable.

9 (D) Subject to the availability of funds, the assessments shall
10 be developed in grade order starting with the lowest grade
11 subject to the STAR Program.

12 (E) If the state board contracts for the development of primary
13 language assessments or test items to augment an existing
14 assessment, the state shall retain ownership rights to the
15 assessment and the test items. With the approval of the state
16 board, the department may license the test for use in other states
17 subject to a compensation agreement approved by the
18 Department of Finance.

19 (F) On or before January 1, 2006, the department shall submit
20 to the Legislature a report on the development and
21 implementation of the initial primary language assessments and
22 recommendations on the development and implementation of
23 future assessments and funding requirements.

24 ~~(g) A pupil of limited English proficiency who is enrolled in~~
25 ~~any of grades 2 to 11, inclusive, and who either receives~~
26 ~~instruction in his or her primary language or has been enrolled in~~
27 ~~a school in the United States for less than 12 months shall be~~
28 ~~required to take a test in his or her primary language if a test is~~
29 ~~available.~~

30 ~~(h)~~

31 (g) (1) The Superintendent shall apportion funds to school
32 districts to enable school districts to meet the requirements of
33 subdivisions (b), ~~(f), and (g)~~ and (f).

34 (2) The state board shall annually establish the amount of
35 funding to be apportioned to school districts for each test
36 administered and shall annually establish the amount that each
37 publisher shall be paid for each test administered under the
38 agreements required pursuant to Section 60643. The amounts to
39 be paid to the publishers shall be determined by considering the
40 cost estimates submitted by each publisher each September and

1 the amount included in the annual Budget Act, and by making
2 allowance for the estimated costs to school districts for
3 compliance with the requirements of subdivisions (b), ~~(f), and (g)~~
4 *and (f)*.

5 (3) An adjustment to the amount of funding to be apportioned
6 per test may not be valid without the approval of the Director of
7 Finance. A request for approval of an adjustment to the amount
8 of funding to be apportioned per test shall be submitted in writing
9 to the Director of Finance and the chairpersons of the fiscal
10 committees of both houses of the Legislature with accompanying
11 material justifying the proposed adjustment. The Director of
12 Finance is authorized to approve only those adjustments related
13 to activities required by statute. The Director of Finance shall
14 approve or disapprove the amount within 30 days of receipt of
15 the request and shall notify the chairpersons of the fiscal
16 committees of both houses of the Legislature of the decision.

17 ~~(i)~~

18 *(h)* For the purposes of making the computations required by
19 Section 8 of Article XVI of the California Constitution, the
20 appropriation for the apportionments made pursuant to paragraph
21 (1) of subdivision ~~(h)~~ *(g)*, and the payments made to the
22 publishers under the contracts required pursuant to Section 60643
23 or subparagraph (C) of paragraph (1) of subdivision (a) of
24 Section 60605 between the department and the contractor, are
25 “General Fund revenues appropriated for school districts,” as
26 defined in subdivision (c) of Section 41202, for the applicable
27 fiscal year, and included within the “total allocations to school
28 districts and community college districts from General Fund
29 proceeds of taxes appropriated pursuant to Article XIII B,” as
30 defined in subdivision (e) of Section 41202, for that fiscal year.

31 ~~(j)~~

32 *(i)* As a condition to receiving an apportionment pursuant to
33 subdivision ~~(h)~~ *(g)*, a school district shall report to the
34 Superintendent all of the following:

35 (1) The number of pupils enrolled in the school district in
36 grades 2 to 11, inclusive.

37 (2) The number of pupils to whom an achievement test was
38 administered in grades 2 to 11, inclusive, in the school district.

39 (3) The number of pupils in paragraph (1) who were exempted
40 from the test at the request of their parents or guardians.

1 ~~(k)~~

2 (j) This section shall become inoperative on July 1, 2007, and
3 as of January 1, 2008, is repealed, unless a later enacted statute,
4 that becomes operative on or before January 1, 2008, deletes or
5 extends the dates on which it becomes inoperative and is
6 repealed.

7 SEC. 2. Section 60640 of the Education Code, as added by
8 Section 16 of Chapter 233 of the Statutes of 2004, is amended to
9 read:

10 60640. (a) There is hereby established the Standardized
11 Testing and Reporting Program, to be known as the STAR
12 Program.

13 (b) Commencing in the 2007–08 fiscal year and each fiscal
14 year thereafter, and from the funds available for that purpose,
15 each school district, charter school, and county office of
16 education shall administer to each of its pupils in grades 3 and 7
17 the achievement test designated by the state board pursuant to
18 Section 60642 and shall administer to each of its pupils in grades
19 3 to 11, inclusive, the standards-based achievement test provided
20 for in Section 60642.5. The state board shall establish a testing
21 period to provide that all schools administer these tests to pupils
22 at approximately the same time during the instructional year,
23 except as necessary to ensure test security and to meet the final
24 filing date.

25 (c) The publisher and the school district shall provide two
26 makeup days for the testing of previously absent pupils within
27 the testing period established by the state board in subdivision
28 (b).

29 (d) The governing board of the school district may administer
30 achievement tests in grades other than those required by
31 subdivision (b) as it deems appropriate.

32 (e) Pursuant to paragraph (17) of subsection (a) of Section
33 1412 of Title 20 of the United States Code, individuals with
34 exceptional needs, as defined in Section 56026, shall be included
35 in the testing requirement of subdivision (b) with appropriate
36 accommodations in administration, where necessary, and those
37 individuals with exceptional needs who are unable to participate
38 in the testing, even with accommodations, shall be given an
39 alternate assessment.

1 (f) ~~A~~(1) *A pupil identified as limited-English-proficient, and*
2 *who either receives instruction in his or her primary language or*
3 *has been enrolled in a school in the United States for less than 12*
4 *months, shall take the achievement test in his or her primary*
5 *language if a test is available.*

6 (2) *At the option of the school district, a pupil with limited*
7 *English proficiency who is enrolled in any of grades 3 to 11,*
8 *inclusive, shall may take a second achievement test in his or her*
9 *primary language. These primary language tests shall be*
10 *administered only to limited-English-proficient pupils who*
11 *either receive instruction in their primary language or have been*
12 *enrolled in a school in the United States for less than 12 months.*
13 *primary language. Primary language tests administered pursuant*
14 *to this subdivision and subdivision (g) shall be subject to the*
15 *requirements of subdivision (a) of Section 60641. These primary*
16 *language tests shall produce individual pupil scores that are valid*
17 *and reliable. Results of these primary language tests may also be*
18 *disaggregated by type of program, duration in a program, and*
19 *English-proficiency. Notwithstanding any other law, the state*
20 *board shall designate for use, as part of this program, a single*
21 *primary language test in each language for which a test is*
22 *available for grades 3 to 11, inclusive, pursuant to the process*
23 *used for designation of the assessment chosen in the 1997–98*
24 *fiscal year, as specified by Sections 60642 and 60643, and as*
25 *specified by Section 60642.5, as applicable.*

26 (g) ~~A pupil with limited English proficiency who is enrolled in~~
27 ~~any of grades 3 to 11, inclusive, shall be required to take a test in~~
28 ~~his or her primary language if a test is available. These primary~~
29 ~~language tests shall be administered only to~~
30 ~~limited-English-proficient pupils who either receive instruction~~
31 ~~in their primary language or have been enrolled in a school in the~~
32 ~~United States for less than 12 months.~~

33 (h)

34 (g) (1) The Superintendent shall apportion funds to school
35 districts to enable school districts to meet the requirements of
36 subdivision (b), the alternative assessment required by
37 subdivision (e), and subdivisions (f) and (g) subdivision (f).

38 (2) The state board shall annually establish the amount of
39 funding to be apportioned to school districts for each test
40 administered and shall annually establish the amount that each

1 publisher shall be paid for each test administered under the
2 agreements required pursuant to Section 60643. The amounts to
3 be paid to the publishers shall be determined by considering the
4 cost estimates submitted by each publisher each September and
5 the amount included in the annual Budget Act, and by making
6 allowance for the estimated costs to school districts for
7 compliance with the requirements of subdivision (b), the
8 alternative assessment required by subdivision (e), and
9 subdivisions ~~(f) and (g)~~. *subdivision (f)*.

10 (3) An adjustment to the amount of funding to be apportioned
11 per test may not be valid without the approval of the Director of
12 Finance. A request for approval of an adjustment to the amount
13 of funding to be apportioned per test shall be submitted in writing
14 to the Director of Finance and the chairpersons of the fiscal
15 committees of both houses of the Legislature with accompanying
16 material justifying the proposed adjustment. The Director of
17 Finance is authorized to approve only those adjustments related
18 to activities required by statute. The Director of Finance shall
19 approve or disapprove the amount within 30 days of receipt of
20 the request and shall notify the chairpersons of the fiscal
21 committees of both houses of the Legislature of the decision.

22 ~~(i)~~

23 *(h)* For the purposes of making the computations required by
24 Section 8 of Article XVI of the California Constitution, the
25 appropriation for the apportionments made pursuant to paragraph
26 (1) of subdivision ~~(h)~~ *(g)*, and the payments made to the
27 publishers under the contracts required pursuant to Section 60643
28 or subparagraph (C) of paragraph (1) of subdivision (a) of
29 Section 60605 between the department and the contractor, are
30 “General Fund revenues appropriated for school districts,” as
31 defined in subdivision (c) of Section 41202, for the applicable
32 fiscal year, and included within the “total allocations to school
33 districts and community college districts from General Fund
34 proceeds of taxes appropriated pursuant to Article XIII B,” as
35 defined in subdivision (e) of Section 41202, for that fiscal year.

36 ~~(j)~~

37 *(i)* As a condition to receiving an apportionment pursuant to
38 subdivision ~~(h)~~ *(g)*, a school district shall report to the
39 Superintendent all of the following:

1 (1) The number of pupils enrolled in the school district in
2 grades 2 3 to 11, inclusive.

3 (2) The number of pupils to whom an achievement test was
4 administered in grades 2 3 to 11, inclusive, in the school district.

5 (3) The number of pupils in paragraph (1) who were exempted
6 from the test at the request of their parents or guardians.

7 ~~(k)~~

8 (j) The Superintendent and the state board are authorized and
9 encouraged to assist postsecondary educational institutions to use
10 the California Standards Tests for academic credit, or placement,
11 and admissions processes, or both purposes.

12 ~~(l)~~

13 (k) The Superintendent shall, with the approval of the state
14 board, annually release to the public at least 25 percent of test
15 items from the standards-based achievement test provided for in
16 Section 60642.5 from the test administered in the previous year.

17 ~~(m)~~

18 (l) This section shall become operative July 1, 2007.

19 SEC. 3. If the Commission on State Mandates determines that
20 this act contains costs mandated by the state, reimbursement to
21 local agencies and school districts for those costs shall be made
22 pursuant to Part 7 (commencing with Section 17500) of Division
23 4 of Title 2 of the Government Code.

24
25
26 **CORRECTIONS:** _____

27 **Digest – Pages 1 and 2.**

28 **Text – Pages 3, 4, 5, 7, 8, and 10.**